

# EXHIBIT 28

Hunters Capital, LLC v. City of Seattle

Brian Kennedy

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

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HUNTERS CAPITAL, LLC, et al.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 20-cv-00983
	)	
CITY OF SEATTLE,	)	
	)	
Defendant.	)	

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VIDEOTAPED VIDEOCONFERENCE DEPOSITION  
UPON ORAL EXAMINATION OF  
BRIAN KENNEDY

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Seattle, Washington

(All participants appeared via videoconference.)

DATE TAKEN: MARCH 9, 2022

REPORTED BY: CINDY M. KOCH, RPR, CRR, CCR #2357

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1 Q. -- what were you asking Celina to do there?

2 A. To bring the phone to me.

3 Q. Okay. And what did you do with the phone after  
4 that?

5 A. I -- I can't say I recall specifically, but it  
6 sounds as though, if he was locked out, we were going to  
7 take steps to unlock it or -- or reset it.

8 Q. So did you take the phone with you, or did  
9 you -- did you reset the phone there?

10 A. It -- again, looking at this email, it looks  
11 like she brought the phone to me.

12 Q. Okay. And the question was, what did you do  
13 with the phone after she brought the phone to you?

14 A. And I can only -- I don't recall specifically.

15 Q. So you don't recall anything that you did with  
16 the phone after she gave you the phone; is that your  
17 testimony here today?

18 A. That's correct. Yes.

19 Q. Did you speak directly to Assistant Chief  
20 Greening about his phone?

21 A. I know I have. I don't know if I did in this  
22 instance.

23 Q. Did you speak to him specifically about whether  
24 you were going to perform a factory reset on his phone?

25 MR. CRAMER: Objection. Asked and answered.

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1 BY MR. REILLY-BATES:

2 Q. Do you want to give your answer again?

3 A. I don't remember specifics.

4 Q. So -- and there -- there are no documents that  
5 could refresh your recollection as to whether -- whether  
6 you took any actions to confirm that Assistant Chief  
7 Greening's phone could be backed up with information  
8 prior to October 26, 2020, before you took that action  
9 to factory reset the phone; correct?

10 MR. CRAMER: Objection. Form.

11 A. Again, I don't recall specifics, so I'm not  
12 sure what...

13 BY MR. REILLY-BATES:

14 Q. Okay. Have you -- have you ever learned any  
15 facts about whether Assistant Chief Greening did have a  
16 backup that he could have obtained old text messages  
17 from following your factory reset of his phone?

18 A. I don't recall anything about that in  
19 particular.

20 Q. And you don't recall whether you -- you even  
21 had any conversations with Assistant Chief Greening  
22 about the phone -- about his phone on October 26, 2020?

23 A. No.

24 Q. Okay. And you don't recall any conversations  
25 that you have had with him about his phone subsequent to

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1 Q. Perhaps I'm pronouncing it wrong, so let me  
2 spell it for you. It's N-e-f -- N-e-a-f-c-y.

3 A. Yeah, I don't --

4 Q. Does that ring a bell?

5 A. Doesn't ring a bell.

6 Q. So you don't have any recollection of -- of  
7 providing a Ken Neafcy any tech support?

8 A. I don't recall it, no.

9 Q. Or setting -- helping him set up a phone?

10 A. Yeah, I don't recall.

11 Q. Are you aware that a -- that Ken Neafcy reached  
12 out to Seattle's IT department with an issue he was  
13 having with his phone on October 26, 2020?

14 A. Yeah, I don't recall that.

15 Q. Okay. One of the issues that -- that Ken  
16 Neafcy and others have complained -- had complained  
17 about as causing them to be locked out of their phones  
18 was that they were prompted by a Seattle security  
19 protocol to change their passcodes on their phone.

20 Can you tell me anything about -- about that  
21 security protocol?

22 MR. CRAMER: Objection. Assumes facts.  
23 Foundation.

24 Go ahead.

25 A. I think, like most of our IT systems, it's like

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1 a 90-day period, you're supposed to change your  
2 passwords.

3 BY MR. REILLY-BATES:

4 Q. Okay. So in 2020, were -- were users of  
5 iPhones supposed to change their passcodes every 90  
6 days?

7 MR. CRAMER: Objection. Foundation.

8 You can testify as to your personal knowledge.  
9 But again, you're here in your personal capacity.  
10 You're not testifying on behalf of the City, so just as  
11 to what you know.

12 A. The phones will prompt you for a password  
13 change sometimes.

14 BY MR. REILLY-BATES:

15 Q. Okay. And have you -- had -- have you ever --  
16 had you ever dealt with that problem, of employees being  
17 locked out of their phones prior to 2020, as a result of  
18 this -- this policy, security protocol?

19 A. I can't say it was based on that security  
20 protocol, but I have dealt with locked-out phones.

21 Q. Okay. So you can't recall whether you -- you  
22 had had any instances of people complaining that they  
23 had been locked out of their phones due to a request --  
24 requested password change prior to October of 2020?

25 MR. CRAMER: Objection. Form.

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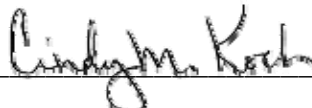
C E R T I F I C A T E

STATE OF WASHINGTON

COUNTY OF PIERCE

I, Cindy M. Koch, a Certified Court Reporter in  
and for the State of Washington, do hereby certify that  
the foregoing transcript of the deposition of Brian  
Kennedy, having been duly sworn, on March 9, 2022, is  
true and accurate to the best of my knowledge, skill and  
ability.

IN WITNESS WHEREOF, I have hereunto set my hand  
and seal this 15th day of March, 2022.



CINDY M. KOCH, CCR, RPR, CRR #2357



My commission expires:

JUNE 9, 2022

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